

REMARKS

I. Amendments to the Claims:

Claims 19-26, 28-40, 42-44, 46-49, and 53-75 were pending in this application. Claims 36, 38-39, 46, 68, 70, 71, and 72 have been amended herewith to correct clerical errors and to properly identify trademarked names. No new matter has been added by way of the instant amendments.

Claim 54 has been cancelled without prejudice. Applicant reserves the right to pursue the subject matter of this claim in a related application.

Upon entry of the instant amendment to the claims, claims 19-26, 28-40, 42-44, 46-49, 53, and 55-75 will be pending in this application.

II. Claim Objections:

Claims 38 and 68 have been amended to correct the error in dependency. Both claims belong to Group I of the Examiner's Restriction (*see, below*).

III. Response to Restriction Requirement:

The Examiner required election of one of the following:

Group I: claims 19-26, 28-37, 38-40, 42-44, 46-49, 53, 55-66, 68, 71, 72, and 74-75 drawn to a method of inducing graft tolerance in a patient, wherein the method comprising depleting T cells of the patient, classified in class 424, subclass 93.1.

Group II: claim 54 drawn to a method for increasing virus-specific peripheral T cell responsiveness of a patient, classified in class 424, subclass 93.1.

Group III: claims 67 and 73 drawn to a method of inducing graft tolerance in a patient, wherein the method does not comprise depleting T cells of the patient, classified in class 424, subclass 93.1.

Group IV: claims 69 and 70 drawn to a method of inducing graft tolerance in a patient wherein the method comprising providing the patient with an immunosuppressive therapy, classified in class 424, subclass 93.1.

Applicant elects **Group I**, claims 19-26, 28-40, 42-44, 46-49, 53, 55-66, 68, 71, 72, and 74-75, with traverse. Applicant traverses the election requirement for the following reasons.

According to MPEP § 803, there are two criteria for a proper requirement for restriction between patentably distinct inventions:

- (A) The inventions must be independent or distinct as claimed; **and**
- (B) There would be a serious burden on the examiner if restriction is not required.

In the instant case, Applicant respectfully avers that there would be no serious burden for the Examiner to examine the subject matter of claims 67 and 73 (Group III) and claims 69 and 70 (Group IV) together with the elected claims of Group I for the following reasons.

As a preliminary matter, the claims of Groups I, III and IV are all classified in class 424, subclass 93.1. In addition, the claims of these three groups relate to methods of inducing graft tolerance in a patient, thus, the search will be substantially similar. Finally, the number of additional claims to be examined are only 4 in number. Taken together, Applicant avers that there is no serious burden on the Patent Office to examine the claims of Groups I, III and IV together, and thus, Applicant respectfully requests that this Restriction Requirement be reconsidered and withdrawn.

IV. Response to Species Election Requirement:

A. *Specific Means and Timing of T cell depletion*

With respect to means of T cell depletion, Applicant elects with traverse chemotherapy. The claims readable on the elected species are claims 19-26, 28-40, 42-44, 46-49, 53, 55-66, 68, 71, 72, and 74-75.

With respect to timing of T cell depletion, Applicant elects with traverse before thymus reactivation. The claims readable on the elected species are claims 19-26, 28-40, 53, 55-60, 62-66, 68, 71, 72, and 74-75.

B. *Specific Cause of Thymic Atrophy*

Applicant elects with traverse post-puberty. The claims readable on the elected species are claims 19-21, 23-26, 28-40, 42-44, 46-49, 53, 55-66, 68, 71, 72, and 74-75.

C. *Specific Means of Thymic Reactivation*

Applicant elects with traverse from claim 36, leuprolide. The claims readable on the elected species are claims 19-26, 28-36, 38-40, 42-44, 46-49, 53, 55-66, 68, 72, and 74-75.

D. *Specific Cell Type Administered*

Applicant elects with traverse hematopoietic cells. The claims readable on the elected species are claims 19-26, 28-40, 42-44, 46-49, 53, 55-66, 68, 71, 72, and 74-75.

E. *Specific Cell/Organ Graft and Target Organ Where Tolerance is Desirable*

Applicant elects with traverse a skin graft. Applicant is unclear as to what the Examiner means by where the tolerance is desirable; tolerance is expected to be

systemic. The claims readable on the elected species are claims 19-26, 28-40, 42-44, 46-49, 53, 55-66, 68, 71, 72, and 74-75.

F. *The Donor Relative to the Recipient*

Applicant elects with traverse an allogeneic donor. The claims readable on the elected species are claims 19-26, 28-39, 40, 42-44, 46-49, 53, 55-66, 68, and 71.

Applicant respectfully traverses the species election requirements made above for the following reasons.

First, according to MPEP § 803.02, if the members of a Markush group are sufficiently few in number or so closely related that a search and examination of the entire claim can be made without serious burden, the Examiner must examine all the members of the Markush group in the claim on the merits, even though they may be directed to independent and distinct inventions. In such a case, the Examiner will not follow the procedure described below and will not require provisional election of a single species (emphasis added). Thus, in the instant case, the MPEP necessarily requires that the Examiner examine all species in the above claims where the number of species recited are sufficiently few in number. Applicant also notes that examination of the recited species in the claims in question would not pose an undue burden on the Patent Office because the recited species are also closely related.

For the foregoing reasons, Applicant respectfully requests that this Species Election Requirement be reconsidered and withdrawn.

CONCLUSIONS


Upon entry of this amendment, claims 19-26, 28-40, 42-44, 46-49, 53, and 55-75 will remain pending in this application.

Applicant petitions for a five-month extension of time to respond to the outstanding Office Action. Please charge the requisite fees to our Deposit Account No. 08-0219. No additional fees are believed to be due in connection with this correspondence. However, if any additional fees are due, please charge the fees due to our Deposit Account No. 08-0219.

If a telephone interview would advance prosecution of the application, the Examiner is invited to telephone the undersigned at the telephone number given below.

Respectfully submitted,

Dated: August 29, 2007



Ann-Louise Kerner, Ph.D.
Reg. No. 33,523

WILMER CUTLER PICKERING HALE AND DORR LLP

60 State Street
Boston, MA 02109
Tel.: (617) 526-6192
Fax: (617) 526-5000